

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

-----	X	
	:	
WILLIAM E. UNDERLAND and MARK	:	
SCHALLER, <i>on behalf of themselves and all</i>	:	
<i>others similarly situated,</i>	:	
	:	Electronically Filed
Plaintiffs,	:	
	:	
- against-	:	
	:	10-Civ.-3621 (CMR)
	:	
DENNIS ALTER, WILLIAM A. ROSOFF,	:	
PHILIP M. BROWNE, DAVID B.	:	
WEINSTOCK, ROBERT S. BLANK, MAX	:	
BOTEL, THOMAS COSTELLO, DANA	:	
BECKER DUNN, RONALD LUBNER, OLAF	:	
OLAFSSON, MICHAEL STOLPER and KPMG	:	
LLP,	:	
	:	
Defendants.	:	
-----	X	

**PLAINTIFFS' REPLY MEMORANDUM IN SUPPORT OF MOTIONS FOR  
(1) FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF  
ALLOCATION; AND (2) AN AWARD OF ATTORNEYS' FEES AND  
REIMBURSEMENT OF LITIGATION COSTS AND EXPENSES**

Plaintiffs William Underland and Mark Schaller (collectively, "Plaintiffs") respectfully submit this notice of non-objection in further support of their Motions for (1) Final Approval of Class Action Settlement and Plan of Allocation; and (2) an Award of Attorneys' Fees and Reimbursement of Litigation Costs and Expenses.<sup>1</sup>

Pursuant to the Court's April 22, 2014 Order Preliminarily Approving Settlement and

---

<sup>1</sup> All capitalized terms not defined herein have the same meanings set forth in the Stipulation and Agreement of Settlement dated August 24, 2011("Stipulation"). Unless otherwise noted, citations are omitted and emphasis is added.

Confirming Final Settlement Hearing (“Preliminary Approval Order”), 4,869 copies of the Notice of Proposed Settlement of Class Action (the “Notice”) were mailed to potential Class Members and their nominees. *See Declaration of Joann Kohl Regarding Publication and Mailing of Notice* (“Kohl Decl.”), ¶¶4-5 (Dkt. No. 216-4). The Notice advised Class Members of the Settlement, the Plan of Allocation, and the request for an award of attorneys’ fees and reimbursement of costs and expenses. The Notice further advised Class Members of the August 9, 2014 deadline and the procedure for filing objections to the Settlement, the Plan of Allocation, and/or the request for an award of attorneys’ fees and reimbursement of costs and expenses.<sup>2</sup> The August 9, 2014 deadline has now passed, and to counsel’s knowledge, not a single Class Member has objected to the proposed Settlement, the proposed Plan of Allocation, or the request for an award of attorneys’ fees and reimbursement of costs and expenses.<sup>3</sup>

This favorable reaction of Class Members supports the reasonableness of the Settlement, the proposed Plan of Allocation, and the fee and expense request. *See Stoetznner v. U.S. Steel Corp.*, 897 F.2d 115, 118-19 (3d Cir. 1990) (concluding that, when “only” 29 members of a class of 281 objected, the response of the class as a whole “strongly favors settlement”); *Bell Atl. Corp. v. Bolger*, 2 F.3d 1304, 1314 n.15 (3d Cir. 1993) (silence is “tacit consent” to settlement); *see also See In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 305 (3d Cir. 2005) (stating that the fact that only two class members objected to the fee request supports approval of the fee); *In re Sterling Fin. Corp. Sec. Class Action*, MDL No. 1879, 2009 WL 2914363, at \*2 (E.D. Pa. Sept. 10, 2009) (Stengel, J.) (where there were only two objections to the fee request, this factor

---

<sup>2</sup> Summary Notice was also published in *The Investor’s Business Daily* and once over the *PR Newswire* on June 24, 2014. *See Kohl Decl.*, ¶7. In addition, the Notice, Proof of Claim and Release form, Stipulation, and the Preliminary Approval Order were posted on a settlement specific website on June 23, 2014, the address of which ([www.AdvantaSecuritiesLitigation.com](http://www.AdvantaSecuritiesLitigation.com)) was set forth in the Notice and Summary Notice. *Id.*, ¶8.

<sup>3</sup> Furthermore, no Class Members have requested to be excluded from the Settlement.

weighed strongly in favor of approving the requested fee award); *Boone v. City of Philadelphia*, 668 F. Supp. 2d 693, 713 (E.D. Pa. 2009) (McLaughlin, J.) (single objection to the proposed attorneys' fees weighs in favor of approving the requested fees); *In re Auto. Refinishing Paint Antitrust Litig.*, MDL No. 1426, 2008 WL 63269, at \*4 (E.D. Pa. Jan. 3, 2008) (Surrick, J.) ("A lack of objections demonstrates that the Class views the settlement as a success and finds the request for counsel fees to be reasonable.").

Based on the foregoing and the entire record herein, Plaintiffs respectively request that the Court: (1) approve the Settlement and Plan of Allocation as fair, reasonable, and adequate and in the best interest of the Class; (2) award attorneys' fees to Lead Counsel in the amount of 33 1/3% of the Settlement Fund (after deduction of Court-approved reimbursement of litigation expenses), together with expenses in the amount of \$285,702.62, plus interest on both amounts; and (3) grant each Plaintiffs' request for \$5,000 as reimbursement for the costs and expenses incurred as a direct result of their representation of the Class.

DATED: August 28, 2014

Respectfully submitted,  
SCOTT+SCOTT, ATTORNEYS AT LAW, LLP

/s/ Thomas L. Laughlin IV  
THOMAS L. LAUGHLIN IV  
(admitted *pro hac vice*)  
The Chrysler Building  
405 Lexington Avenue, 40th Floor  
New York, NY 10174  
Telephone: (212) 223-6444  
Facsimile: (212) 223-6334  
tlaughlin@scott-scott.com

Geoffrey M. Johnson (admitted *pro hac vice*)  
SCOTT+SCOTT, ATTORNEYS AT LAW, LLP  
12434 Cedar Road, Suite 12  
Cleveland Heights, OH 44106  
Telephone: (216) 229-6088  
Facsimile: (216) 229-6092  
gjohnson@scott-scott.com

THE WEISER LAW FIRM, P.C.  
Robert B. Weiser (PA #81575)  
Brett D. Stecker (PA #86242)  
Christopher L. Nelson (PA #85609)  
Jeffrey J. Ciarlanto (PA #205838)  
22 Cassatt Ave.  
Berwyn, PA 19312  
Telephone: (610) 225-2677  
Facsimile: (610) 408-8062  
rw@weiserlawfirm.com  
bds@weiserlawfirm.com  
cln@weiserlawfirm.com  
jjc@weiserlawfirm.com

*Counsel for Lead Plaintiffs*

**CERTIFICATE OF SERVICE**

The undersigned certifies that on August 28, 2014, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court for the Eastern District of Pennsylvania using the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

/s/ Thomas L. Laughlin IV

THOMAS L. LAUGHLIN IV

(admitted *pro hac vice*)

SCOTT+SCOTT, ATTORNEYS AT LAW, LLP

The Chrysler Building

405 Lexington Avenue, 40th Floor

New York, NY 10174

Telephone: (212) 223-6444

Facsimile: (212) 223-6334